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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2009-225*

13 THOMAS EDWARD ZOLTANSKI
c/o McDonald
14 1578 County Road M
McClure, Ohio 43534

A C C U S A T I O N

15 Registered Nurse License No. 528232

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 ("Board"), Department of Consumer Affairs.

23 2. On or about December 4, 1996, the Board of Registered Nursing issued
24 Registered Nurse License Number 528232 to Thomas Edward Zoltanski ("Respondent").
25 Respondent's registered nurse license was in full force and effect at all times relevant to the
26 charges brought herein and will expire on June 30, 2010, unless renewed.

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4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions . . .

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

As used in Section 2761 of the code, "incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

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1 **COST RECOVERY**

2 8. Code section 125.3 provides, in pertinent part, that the Board may request
3 the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Incompetence)**

8 9. Respondent is subject to disciplinary action pursuant to Code section
9 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about February
10 25, 2008, while employed as a flight nurse by CALSTAR, California Shock/Trauma Air Rescue,
11 McClellan, California (hereinafter "CALSTAR"), Respondent was incompetent within the
12 meaning of Regulation 1443 in providing care to patient Q. J., a 48 year old male. Respondent
13 performed a surgical cricothyrotomy¹ on patient Q. J. when the procedure was contraindicated
14 because the patient was successfully ventilated and oxygenated through another method (bag
15 valve mask).

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Gross Negligence)**

18 10. Respondent is subject to disciplinary action pursuant to Code section
19 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about February
20 25, 2008, while employed as a flight nurse by CALSTAR, Respondent was grossly negligent
21 within the meaning of Regulation 1442 in providing nursing care to patient Q. J., as follows:

22 a. While performing the surgical cricothyrotomy and incising the patient,
23 Respondent transected the patient's larynx and completely perforated or dissected the right
24 lateral and posterior wall of the upper trachea at about the second tracheal ring level. The
25 incision further caused the partial disruption of patient Q. J.'s pharyngeal venous plexus and
26 hemorrhaging. Patient Q. J.'s lungs were then filled with blood.

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28 1. A surgical cricothyrotomy is used to allow rapid entrance to the airway for temporary
ventilation and oxygenation via the intentional opening of the cricoids membrane.

1 b. Respondent then attempted use of a Combitube to ventilate patient Q. J.
2 Respondent knew, or should have known, insertion of a Combitube into patient Q. J.'s
3 esophagus would allow air to leak out of the cricothyrotomy hole, preventing the patient's lungs
4 from being ventilated.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**


7 11. Respondent is subject to disciplinary action pursuant to Code section
8 2761, subdivision (a), in that on or about February 25, 2008, while employed as a flight nurse by
9 CALSTAR, Respondent committed acts constituting unprofessional conduct, as set forth in
10 paragraphs 9 and 10 above.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Revoking or suspending Registered Nurse License Number 528232, issued
15 to Thomas Edward Zoltanski;
- 16 2. Ordering Thomas Edward Zoltanski to pay the Board of Registered
17 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
18 Business and Professions Code section 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: 3/23/09.

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23 RUTH ANN TERRY, M.P.H., R.N.
24 Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California
28

Complainant